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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,673	09/30/2003	Dustin C. Kirkland	AUS920030796US1	6742

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DALLAS, TX 75380

EXAMINER
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ROSWELL, MICHAEL

ART UNIT	PAPER NUMBER
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2173

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/675,673

Applicant(s)

KIRKLAND, DUSTIN C.

Examiner

Michael Roswell

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 9-11, 16, 17 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9-11, 16-17 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 9-11, 16-17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (US Patent 7,107,312), hereinafter Hackbarth, and Crawford (US Patent 6,781,608).

Regarding claims 1 and 10, Hackbarth teaches responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, wherein the picture image of the sender is located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures, taught as the "ConnectIcon View" of Hackbarth, which allows for a group of users being invited to communicate together to view dynamic image representations of their current status relative to a multitude of communication mechanisms (col. 6, lines 18-40). The ConnectIcon View displays personal user images (col. 16, lines 31-44), and stores the user images and information in a remote database (col. 10, lines 63-67 and col. 5, lines 6-34). Hackbarth teaches instant message style communication at col. 13, lines 25-28.

However, Hackbarth fails to explicitly teach displaying the picture image of the sender with the instant message on a display in the data processing system if the picture image of the sender is associated with the instant message.

Crawford teaches the use of instant message communication similar to that of Hackbarth. Furthermore, Crawford teaches displaying a picture image of a sender with an instant message on a display in a data processing system if the picture image of the sender is associated with the instant message, as each user of the instant messaging system has a related "buddy icon" that is displayed concurrently with the instant message, as can be seen in Fig. 11, at col. 17, lines 32-38.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Hackbarth and Crawford before him at the time the invention was made to modify the messaging system of Hackbarth to include the user icon display within the instant message as taught by Crawford. One would have been motivated to make such a combination for the obvious advantage of easily identifying a message sender or conversation through a user-specific icon. Furthermore, Hackbarth teaches the picture image of the sender being stored in the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging, as Hackbarth allows for the use of several communications mechanisms other than instant messaging at col. 6, lines 18-40.

Regarding claims 2 and 11, Crawford teaches the picture image of the sender and the instant message being displayed in a single window (as can be seen in Fig. 11, at col. 17, lines 32-38), and Hackbarth teaches the picture image of the sender being a "mug shot" (col. 10, lines 63-67).

Regarding claim 3, Crawford teaches the user selected preference being local, and the picture image of the sender not being received with the instant message but instead being previously received with another message previously sent to the data processing system from the sender and stored in the local cache on the data processing system, taught as the user preference selection of Fig. 8, col. 17, lines 7-13, and the persistent buddy icon display of col. 17, lines 32-38.

Regarding claim 9, Hackbarth teaches a bus system, communications unit connected to the bus system, a memory connected to the bus system, wherein the memory includes a set of instructions (taught as the computer system and network of Figs. 1 and 2), responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, wherein the picture image of the sender is located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures, taught as the "ConnectIcon View" of Hackbarth, which allows for a group of users being invited to communicate together to view dynamic image representations of their current status relative to a multitude of communication mechanisms (col. 6, lines 18-40). The ConnectIcon View displays personal user images (col. 16, lines 31-44), and stores the user images and information in a remote database (col. 10, lines 63-67 and col. 5, lines 6-34). Hackbarth teaches instant message style communication at col. 13, lines 25-28.

However, Hackbarth fails to explicitly teach displaying the picture image of the sender with the instant message on a display in the data processing system if the picture image of the sender is associated with the instant message.

Crawford teaches the use of instant message communication similar to that of Hackbarth. Furthermore, Crawford teaches displaying a picture image of a sender with an instant message on a display in a data processing system if the picture image of the sender is associated with the instant message, as each user of the instant messaging system has a related "buddy icon" that is displayed concurrently with the instant message, as can be seen in Fig. 11, at col. 17, lines 32-38.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Hackbarth and Crawford before him at the time the invention was made to modify the messaging system of Hackbarth to include the user icon display within the instant message as taught by Crawford. One would have been motivated to make such a combination for the obvious advantage of easily identifying a message sender or conversation through a user-specific icon. Furthermore, Hackbarth teaches the picture image of the sender being stored in the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging, as Hackbarth allows for the use of several communications mechanisms other than instant messaging at col. 6, lines 18-40.

Regarding claims 16 and 22, Hackbarth teaches responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, wherein the picture image of the sender is located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote

data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures, taught as the "ConnectIcon View" of Hackbarth, which allows for a group of users being invited to communicate together to view dynamic image representations of their current status relative to a multitude of communication mechanisms (col. 6, lines 18-40). The ConnectIcon View displays personal user images (col. 16, lines 31-44), and stores the user images and information in a remote database (col. 10, lines 63-67 and col. 5, lines 6-34). Hackbarth teaches instant message style communication at col. 13, lines 25-28.

However, Hackbarth fails to explicitly teach displaying the picture image of the sender with the instant message on a display in the data processing system if the picture image of the sender is associated with the instant message.

Crawford teaches the use of instant message communication similar to that of Hackbarth. Furthermore, Crawford teaches displaying a picture image of a sender with an instant message on a display in a data processing system if the picture image of the sender is associated with the instant message, as each user of the instant messaging system has a related "buddy icon" that is displayed concurrently with the instant message, as can be seen in Fig. 11, at col. 17, lines 32-38.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Hackbarth and Crawford before him at the time the invention was made to modify the messaging system of Hackbarth to include the user icon display within the instant message as taught by Crawford. One would have been motivated to make such a combination for the obvious advantage of easily identifying a message sender or conversation through a user-specific icon. Furthermore, Hackbarth teaches the picture image of the sender being stored in

the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging, as Hackbarth allows for the use of several communications mechanisms other than instant messaging at col. 6, lines 18-40. Crawford teaches the use of a generic icon database maintained separately from the preexisting database, as can be seen from the icon selection screens of Fig. 8 and 9.

Regarding claim 17, Crawford teaches the picture image of the sender and the instant message being displayed in a single window (as can be seen in Fig. 11, at col. 17, lines 32-38), and Hackbarth teaches the picture image of the sender being a "mug shot" (col. 10, lines 63-67).

Claims 5-7 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth, Crawford and Rosenblatt et al (US Publication 2002/0007276), hereinafter Rosenblatt.

Regarding claims 5 and 23, Hackbarth teaches responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, wherein the picture image of the sender is located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures, taught as the "ConnectIcon View" of Hackbarth,



which allows for a group of users being invited to communicate together to view dynamic image representations of their current status relative to a multitude of communication mechanisms (col. 6, lines 18-40). The ConnectIcon View displays personal user images (col. 16, lines 31-44), and stores the user images (mug shots) and information in a remote database (col. 10, lines 63-67 and col. 5, lines 6-34). Hackbarth teaches instant message style communication at col. 13, lines 25-28.

However, Hackbarth fails to explicitly teach displaying the picture image of the sender with the instant message on a display in the data processing system if the picture image of the sender is associated with the instant message.

Crawford teaches the use of instant message communication similar to that of Hackbarth. Furthermore, Crawford teaches displaying a picture image of a sender with an instant message on a display in a data processing system if the picture image of the sender is associated with the instant message, as each user of the instant messaging system has a related "buddy icon" that is displayed concurrently with the instant message, as can be seen in Fig. 11, at col. 17, lines 32-38.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Hackbarth and Crawford before him at the time the invention was made to modify the messaging system of Hackbarth to include the user icon display within the instant message as taught by Crawford. One would have been motivated to make such a combination for the obvious advantage of easily identifying a message sender or conversation through a user-specific icon. Furthermore, Hackbarth teaches the picture image of the sender being stored in the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than

instant messaging, as Hackbarth allows for the use of several communications mechanisms other than instant messaging at col. 6, lines 18-40.

Hackbarth and Crawford fail to explicitly teach the selected picture being automatically selected by the instant messaging process based upon particular content in the instant message.

Rosenblatt teaches the use of an instant messaging system similar to that of Hackbarth and Crawford. Furthermore, Rosenblatt teaches a selected picture being automatically selected by the instant messaging process based upon particular content in the instant message, as the virtual representation of the user is capable of changing its displayed "emotion" based on textual input, at ¶ 0015.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Hackbarth, Crawford and Rosenblatt before him at the time the invention was made to modify the instant messaging systems of Hackbarth and Crawford to include the emotion-specific images of Rosenblatt. One would have been motivated to make such a combination for the advantage of providing realistic visual imagery and cueing to enhance user experience. See Rosenblatt, ¶ 0003-0006.

Regarding claims 6 and 24, Rosenblatt teaches the content input being an emoticon, at ¶ 0019.

Regarding claim 7, Crawford teaches receiving the picture image of the sender with the instant message, as can be seen in Fig. 11.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3, 5-7, 9-11, 16-17 and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

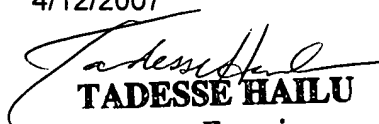
Please note that the examiner of record has changed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Roswell  
4/12/2007

  
**TADESSE HAILU**  
*Patent Examiner*